

# **CITY COUNCIL AGENDA**

**OCTOBER 7, 2003**

## **SYNOPSIS**

LINDA J. LE ZOTTE  
FORREST WILLIAMS  
CINDY CHAVEZ  
CHUCK REED  
NORA CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

RON GONZALES MAYOR

KEN YEAGER  
TERRY O. GREGORY  
DAVID D. CORTESE  
JUDY CHIRCO  
PAT DANDO, VICE MAYOR

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Economic and Neighborhood Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Recreation and Cultural Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Aviation Services*** — Provide for the air transportation needs of the community and the region at levels that are acceptable to the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 10 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

1. **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item/s that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
2. When the Council reaches your item on the agenda, Mayor Ron Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
3. Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
4. To assist you in tracking your speaking time, there are three lights located to the far right of the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

**The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.**

Agendas and Staff Reports for City Council items may be viewed on the Internet at [www.ci.san-jose.ca.us/cty\\_clk/agenda.htm](http://www.ci.san-jose.ca.us/cty_clk/agenda.htm)

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call 1 (408) 277-4424 or 1 (408) 998-5299 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**  
9:00 a.m. - Closed Session, Room 600, City Hall  
**Absent – Council Members: None.**  
  
1:30 p.m. - Regular Session, Council Chambers, City Hall  
**Absent – Council Members: None.**  
  
7:00 p.m. - Public Hearings, **CANCELED**
- **Invocation (District 9)**  
**The Cambrian Trio; John Kurfman, Don Sanders, and Tom Rigler delivered the Invocation.**
- **Pledge of Allegiance**  
**Mayor Gonzales led the Pledge of Allegiance.**
- **Orders of the Day**  
**Items 10.1, 10.2, and 10.3 were considered in a Joint City Council/Redevelopment Agency Board session. Redevelopment Agency agenda Item 5.1 was deferred to 10/21/03.**

ADJOURNMENT: This meeting will be adjourned in memory of Mr. Robert (Bob) Williamson, husband of Marian Dixon of the Public Works Department.

## **1 CEREMONIAL ITEMS**

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- 1.1** Presentation of a commendation to the MACSA Youth Center Eagle Warrior Athletics 19 and Under, 16 and Under, 14 and Under, 12 and Under, 12 and Under Girls, and 10 and Under Futsal Teams. Each of these teams placed at least third, including some National Championships at the 2003 National Futsal Championships in Anaheim, CA. (Campos) (Deferred from 9/16/03 – Item 1.1)  
**Deferred to 10/21/03.**

# 1 CEREMONIAL ITEMS

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- 1.2 Presentation of a proclamation declaring October 15, 2003 as National Disability Mentoring Day and the month of October 2003 as Employment of Persons with Disabilities Awareness Month, with the theme “America Works Best When All Americans Work.” (Disability Advisory Commission/LeZotte)  
**Mayor Gonzales was joined at the podium by Council Member LeZotte to present a proclamation to Sandra Correa declaring October 15, 2003 as National Disability Mentoring Day and the month of October 2003 as Employment of Person with Disabilities Awareness Month with the theme, “America Works Best When All Americans Work”.**
- 1.3 Presentation of a check from the SBC San José Golf Classic 2003 to Eagles at Rancho del Pueblo, Youth Golf Program. (Mayor)  
**Mayor Gonzales was joined by Victor Ariaga from SBC Communication to present a check from the SBC San José Golf Classic 2003 to Scott Hathaway from the Rancho del Pueblo Youth Golf Program and commended the program for their continued support of the community, youth and education in San José.**
- 1.4 Presentation of a commendation to Billy DeFrank Center for National Coming Out Day. (Reed, Yeager)  
(Rules Committee referral 10/1/03)  
**Council Members Reed and Yeager joined Mayor Gonzales at the podium to present a commendation to the Billy DeFrank Center for National Coming Out Day and for their contributions to the Gay, Lesbian, Bisexual and Transgender communities of San José and the Bay Area.**
- 1.5 Presentation of a proclamation declaring the week of October 5, 2003 as Fire Prevention Week. (Fire)  
[Rules Committee referral of 10/01/03]  
**Mayor Gonzales was joined at the podium by Acting Fire Chief Dale Foster of the San José Fire Department to present a proclamation declaring the week of October 5, 2003 through October 11, 2003 as Fire Prevention Week and invited the community to participate in upcoming events in San José to acknowledge Fire Prevention Week, such as the Pumpkin in the Park event on Saturday, October 11, 2003, from 11am to 4pm at the Discovery Meadow and for the community to visit their neighborhood Fire Station during their open house and tour their facilities.**

# 2 CONSENT CALENDAR

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**Notice to the public:** There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item will be removed from the Consent Calendar and considered separately.

- 2.1 **Approval of Minutes.**  
None.

## 2 CONSENT CALENDAR

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### 2.2 Final adoption of ordinances.

**Recommendation:** Final adoption of ordinances:

- (a) ORD. NO. 26987 – Amends Sections 11.48.150 and 11.48.160 of Chapter 11.48 of Title 11 of the San José Municipal Code to permanently add a total of 29 additional block segments to the Horace Mann and South University Neighborhood Residential Permit Parking Areas.

**Ordinance No. 26987 adopted.**

### 2.3 Approval of a Memorandum of Understanding regarding the South Almaden Urban Reserve.

**Recommendation:** Approval of a second amendment to the Memorandum of Understanding between the City of San José and San José Unified School District regarding the recreational use of certain property in the South Almaden Urban Reserve, extending the term of the MOU to January 22, 2005. (City Attorney's Office)

**Approved.**

### 2.4 Acceptance of the Office of the City Auditor's monthly Report.

**Recommendation:** Acceptance of the Office of the City Auditor's monthly *Report of Activities and Findings through September 15, 2003*. (City Auditor)

**The Office of the City Auditor's Monthly Report was accepted.**

### 2.5 Approval to amend the agreements with Managed Health Network.

**Recommendation:**

- (a) Approval of an amendment to the agreement with Managed Health Network (MHN) to add processing and payment of claims for substance abuse treatment to the current employee assistance contract covering non-sworn classifications, at no additional cost to the City.
- (b) Approval of an amendment to the agreement with Managed Health Network (MHN) to add processing and payment of claims for substance abuse treatment to our current employee assistance contract covering sworn classifications, at no additional cost to the City.

CEQA: Not a Project. (Employee Services)

**Approved.**

### 2.6 Approval of an agreement with the San José Public Library Foundation.

**Recommendation:** Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with the San José Public Library Foundation, through June 30, 2004, in an amount not to exceed \$350,000. CEQA: Not a Project. (Library)

**Resolution No. 71776 adopted.**

## 2 CONSENT CALENDAR

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### 2.7 Approval of intention to vacate Crucero Drive.

**Recommendation:** Adoption of a resolution of intention to vacate a portion of Crucero Drive and reserve a public service easement, and setting a public hearing on November 4, 2003 at 1:30 p.m. CEQA: Exempt, HA62-062. Council District 7. SNI: Santee.  
(Public Works)

**Resolution No. 71777 adopted.**

### 2.8 Approval of appointments to the City of San José Housing Trust Fund Oversight Committee.

**Recommendation:** Adoption of a resolution approving the appointments to the City of San José Housing Trust Fund Oversight Committee. (Mayor)  
(Deferred from 9/2/03 – Item 2.7 et al., and 9/30/03 – Item 2.3)

**Resolution No. 71778 adopted.**

## 3 STRATEGIC SUPPORT SERVICES

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### 3.1 Report of the Study Session

**Mayor Gonzales, Chair**

**No Report.**

### 3.2 Report of the Rules Committee – September 24, 2003

**Vice Mayor Dando, Chair**

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review October 7, 2003 Draft Agenda

**The Committee recommended approval of the October 7, 2003 City Council agenda with four additions.**

(2) Add New Items to September 30, 2003 Amended Agenda

- Mayor and Council Member Requests
- City Manager Requests
- City Attorney Requests
- City Clerk Requests

**Regarding Item 3.5, Public Notification and Dissemination of Information in Public Safety Investigations, the Committee directed staff to request the Mayor's Office for a time certain during the afternoon session and also suggested Mr. Konda (Asian Law Alliance) and Mr. Ho (Coalition for Justice and Accountability) contact the Mayor's Office to request a time certain and to negotiate the amount of time each speaker and/or the Coalition will have during public testimony. The Committee requested Mr. Konda and Mr. Ho work with the Coalition to ensure that presentations are concise and focused.**

### 3 STRATEGIC SUPPORT SERVICES

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#### 3.2 Report of the Rules Committee – September 24, 2003 (Cont'd.)

##### Vice Mayor Dando, Chair

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting
- (b) City Council
  - (2) Add New Items to September 30, 2003 Amended Agenda
    - Mayor and Council Member Requests
    - City Manager Requests
    - City Attorney Requests
    - City Clerk Requests

**The Committee recommended the following for the September 30, 2003 City Council agenda; five additions; five items moved to October 7, 2003 and one item continued to October 21, 2003.**
  - (3) List of Reports Outstanding

**The Committee noted and filed the City Manager's report listing four staff reports outstanding for the September 30, 2003 Council agenda.**
- (c) Legislative Update
  - (1) State

**Betsy Shotwell, Director of Intergovernmental Relations, informed the Committee that the State Legislature will reconvene next Monday to consider AB 1313, Megan's Law. She will report on this issue at next week's Rules Committee meeting.**
  - (2) Federal

**There was no report.**
- (d) Meeting Schedules

**There were none.**
- (e) The Public Record

**There was no Public Record filed.**
- (f) Appointment to Boards, Commissions and Committees

**There were none.**

### **3 STRATEGIC SUPPORT SERVICES**

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#### **3.2 Report of the Rules Committee – September 24, 2003 (Cont'd.)**

**Vice Mayor Dando, Chair**

- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Reports from City Manager and City Attorney regarding further analysis and recommendations related to “Getting Families Back to Work”  
**The Committee forwarded two items for consideration at the September 30, 2003 City Council meeting: a matrix from City Manager Del Borgsdorf, entitled: “Getting Families Back to Work, Analysis of Recommendations & Questions”, and a memorandum from City Attorney Richard Doyle responding to and supplementing responses from the City Manager as to certain legal issues raised by Council Members in connection with the “Getting Families Back to Work” agenda item.**
- (h) Oral communications  
**None were presented.**
- (i) Adjournment  
**The meeting adjourned at 2:45 P.M.**

#### **3.3 Report of the Making Government Work Better Committee**

**Council Member Campos, Chair**

**No Report.**

### **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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#### **4.1 Report of the Building Strong Neighborhoods Committee**

**Council Member Chavez, Chair**

**No Report.**

#### **4.2 Report of the Driving a Strong Economy Committee – September 22, 2003**

**Council Member Williams, Chair**

- (a) Report on the Development Services Study  
**The Committee unanimously accepted the staff report, as directed.**
- (b) Discussion on the Economic Strategy  
**The Committee unanimously accepted deferral for this staff report.**
- (c) Discussion on San José’s major sales tax generators  
**The Committee adjourned meeting and ended discussion for this agenda item.**
- (d) Oral petitions  
**None.**
- (e) Adjournment  
**The meeting was adjourned at 2:30 P.M.**

## **4 ECONOMIC & NEIGHBORHOOD DEVELOPMENT**

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### **4.3 Amendments to the Clean Fuel (Hybrid) Vehicle Purchase Incentive Program.**

**Recommendation:** Adoption of a resolution amending the Master Parking Rate Schedule to modify the Hybrid Vehicle Purchase Incentive Program to include new hybrid vehicles purchased at participating San José auto dealerships since January 2000, and to establish a sunset date of April 29, 2005 for expiration of the Hybrid Vehicle Purchase Incentive Program. (Mayor)

**Resolution No. 71779 adopted.**

### **4.4 Approval of various actions related to flexible pricing of Convention Center facilities.**

**Recommendation:**

- (a) Approval of an ordinance amending Sections 22.01.070 and 22.01.080 of Chapter 22.01 of Title 22 of the San José Municipal Code authorizing the Director of Convention, Arts & Entertainment to reduce facility fees for the use of the Convention and Cultural Facilities; and

**Ordinance No. 26994 passed for publication.**

- (b) Adoption of a resolution amending the Master Parking Rate Schedule to modify parking rates charged at the convention center garage by:
  - (1) Authorizing the Director of Convention, Arts & Entertainment to reduce or increase flat parking rates;
  - (2) Establishing incremental parking rates for non-event days; and
  - (3) Including the convention center garage in the Downtown Retail Validation Program.

CEQA: Exempt, PP03-09-297. Council District 3. (Conventions, Arts and Entertainment/Transportation).

(Deferred from 9/30/03 – Item 6.4)

**Resolution No. 71779 adopted.**

**Staff directed to ensure advance bookings for venues such as the Center for Performing Arts are included in the City's booking policies.**

### **4.5 Approval of the proposed schedule, process, and evaluation criteria for the FY 04-05 CDBG Application cycle.**

**Recommendation:**

- (a) Approval of the application process, evaluation and rating criteria, and schedule for the FY 2004-2005 CDBG application cycle;
- (b) Approval of funding priority to projects that are included in a Strong Neighborhoods Initiative (SNI) Plan;
- (c) Approval of an Application Appeals Policy that allows an applicant to appeal staff's recommendation not to consider a proposed project for funding; and
- (d) Approval of a Use of Fiscal Agents Policy that allows an applicant to use a fiscal agent on a one-time basis.

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)  
[Rules Committee referral of 10/01/03]

**Approved. Noes: Cortese.**

## **5 RECREATION & CULTURAL SERVICES**

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- 5.1 Report of the All Children Achieve Committee**  
**Council Member Yeager, Chair**  
**No Report.**

- 5.2 Approval to amend the agreement for the New Vineland Branch Library Project.**

**Recommendation:** Approval of the first amendment to the agreement with Field Paoli Architects for consultant services for the New Vineland (formerly Blossom Hill) Branch Library Project, increasing the amount of compensation by \$25,500, for a total agreement amount not to exceed \$1,003,000. CEQA: Exempt, H01-12-081. Council District 10. (Public Works)

**Approved.**

- 5.3 Acceptance of the reports on the Library Benefit Assessment District and the Library Annual Usage.**

**Recommendation:**

- (a) Acceptance of the FY 02-03 Report on Library Usage; and
- (b) Acceptance of the FY 02-03 Benefit Assessment Expenditures.

CEQA: Not a Project. (Library)

[Rules Committee referral of 10/01/03]

**The Library Benefit Assessment District and the Library Annual Usage reports were accepted.**

## **6 TRANSPORTATION SERVICES**

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- 6.1 Report of the Building Better Transportation Committee**  
**Council Member Cortese, Chair**  
**No Report.**

## **7 ENVIRONMENTAL & UTILITY SERVICES**

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- 7.1 Acceptance of the Watershed Action Plan.**

**Recommendation:** Adoption of a resolution:

- (a) Accepting the Watershed Action Plan as prepared by the Santa Clara Basin Watershed Management Initiative, and
- (b) Authorizing the City Manager to execute the Santa Clara Basin Watershed Management Initiative 2003 Signatory Document, to confirm the City's continued commitment to participate in the Watershed Management Initiative activities.

CEQA: Exempt, PP03-09-291. (Environmental Services)

**Resolution No. 71780 adopted.**

## **7 ENVIRONMENTAL & UTILITY SERVICES**

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### **7.2 Public Hearing and approval of an ordinance modifying Storm Water Runoff Management and Post-Construction Storm Water Quality Control provisions in the San José Municipal Code.**

**Recommendation:** PUBLIC HEARING on approval of an ordinance amending Title 20 of the San José Municipal Code to modify and add provisions related to Storm Water Runoff Management and Post-Construction Storm Water Quality Control. CEQA: Addendum to San José 2020 General Plan Environmental Impact Report Resolution No. 65459, PP03-07-224. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (7-0-0). (Planning, Building, and Code Enforcement)

(Continued from 8/19/03 - Item 7.1 et al., and 9/30/03 - Item 7.1)

**The Public Hearing was held and Ordinance No. 26995 passed for publication.**

**Staff directed to provide Council with the costs for implementing the additions to the Storm Water Runoff Management and Post-Construction Storm Water Quality Control provisions into the San José Municipal Code. Noes: Dando.**

### **7.3 Public Hearing on proposed revisions to the City Council Policy on Post-Construction Urban Runoff Management.**

**Recommendation:** PUBLIC HEARING on and adoption of a resolution approving proposed revisions to the City Council Policy on Post-Construction Urban Runoff Management in order to:

- (1) Maintain consistency with the requirements of the National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System (NPDES MS4 Permit) issued to the City of San José and the other co-permittees that constitute the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP); and
- (2) Establish a waiver program that will allow project proponents to request a waiver from the requirement to install treatment Best Management Practices (BMPS) for a given project, upon an appropriate showing of impracticability, and with provision to treat an equivalent pollutant loading or quantity of stormwater runoff, or provide other equivalent water quality benefit. CEQA: Addendum to San José 2020 General Plan Environmental Impact Report Resolution No. 65459, PP03-07-225.

(Planning, Building, and Code Enforcement)

(Continued from 8/19/03 - Item 7.2 et al., and 9/30/02 - Item 7.2)

**The Public Hearing was held and Resolution No. 71781 adopted. Noes: Dando.**

## **8 AVIATION SERVICES**

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## **9 PUBLIC SAFETY SERVICES**

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## 10 JOINT COUNCIL/REDEVELOPMENT AGENCY

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The Redevelopment Agency Board convened to consider Items 10.1, 10.2, and 10.3 in a Joint Session at 3:19 P.M.

### 10.1 Approval of proposed Design Guidelines for the Guadalupe River Park and Gardens.

**Recommendation:** Approval of proposed Design Guidelines for the Guadalupe River Park and Gardens. (Redevelopment Agency/City Manager's Office)  
(Deferred from 9/30/03 – Item 10.2)

**Approved.**

### 10.2 Review of an ordinance related to a Construction Impact Mitigation.

**Recommendation:**

- (a) Approval of an ordinance amending Titles 13 and 15 of the San José Municipal Code to revise Chapters 13.36 and 15.50, setting forth a requirement that a Construction Impact Mitigation Plan be prepared for all major construction projects in the public right of way, unless the City has otherwise entered into a Cooperation Agreement requiring such a Plan.

**Ordinance No. 26996 passed for publication.**

- (b) Adoption of a resolution amending Resolution No. 71216 to take effect on 11/21/03 establishing an administrative fine of \$5,000 per day for violations of the Construction Impact Mitigation Plan requirements.

(City Manager's Office/Redevelopment Agency)

[Building Better Transportation Committee referral 9/8/03 – Item 6.1(b)(1)]

(Deferred from 9/23/03 - Item 6.2 and 9/30/03 – Item 6.2)

**Resolution No. 71782 adopted.**

**Staff directed to return to Council and the appropriate committees within the first year with a list of encroachment permits pulled for projects, what project groups they fall under, and the costs of the CIM fees for those projects.**

## 10 JOINT COUNCIL/REDEVELOPMENT AGENCY

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### 10.3 Review and approval of a process for Community Benefits Assessment and Community Impact Report Proposals.

**Recommendation:** Review and approval of a process for Community Benefits Assessment and Community Impact Report Proposals. (Mayor)  
(Council referral 9/30/03 – Item 10.1)

**Approved.**

**Staff directed to provide Council with the answers to the following questions pertaining to the Community Benefits Assessment and Community Impact Report Proposals:**

- 1) What's the general problem?
- 2) What's the solution?
- 3) Will it work?
- 4) What are the costs?
- 5) What are the side effects?
- 6) Who are the unemployed and what do they need to get a job in San José, in general, who is the target audience and what can we do to help them?
- 7) Pertaining to the Redevelopment Agency; Does the solution deal with the RDA problem?
- 8) In regards to the Adobe Inc. project; If you were to retroactively apply whatever the solution may be in accordance to Adobe project. how would that project be different?

The Redevelopment Agency Board portion of the meeting adjourned at 3:45 P.M.

- Closed Session Report
- Notice of City Engineer's Pending Decision on Final Maps  
In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9496	S/S of Lenzen Ave., 500' westerly of Stockton Avenue	6	Des Nolan and Liam Balfe	21 units	Multi- Family	Approve
9492	Southwest corner of Lewis Street and Wall Street	7	Roem Development	17 lots/16 units	SFA	Approve

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

**None.**

- **Open Forum—**  
**None.**

- **Adjournment**

**The Council of the City of San José adjourned in memory of Mr. Robert (Bob) Williamson, husband of Marian Dixon of the Public Works Department at 3:45 P.M.**